

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

Division of International Law

PAMPHLET SERIES

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Carnegie Endowment for International Peace

DIVISION OF INTERNATIONAL LAW

Pamphlet No. 14

THE HAGUE CONVENTION (VI) OF 1907 RE- LATING TO THE STATUS OF ENEMY MERCHANT SHIPS AT THE OUT- BREAK OF HOSTILITIES

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Preface

In view of the very great interest at the present time in the Conventions and signed Declarations of the First and Second Hague Conferences, and particularly because of the need of accurate information as to ratifications of and adhesions to the Conventions and Declarations relating to war, the Endowment has prepared a series of pamphlets in order that the public may learn from reliable sources the status of these international agreements and the extent to which the Powers now at war are bound by their provisions.

The first pamphlet of this series (No. 3 of the pamphlet series of the Division of International Law) contains the respective Tables of Signatures, Ratifications, Adhesions and Reservations of the Conventions and Declarations of the two Conferences. The compilation has been made from official sources, and the tables have been certified as accurate by the Department of State of the United States. In all cases the reservations contained in the *procès-verbaux*, but only referred to in the official tables issued by the International Bureau of the Permanent Court of Arbitration, have been translated and printed in full, with the references to the official reports where their texts appear. Without the complete text of a reservation it is impossible to know to what extent a Power is bound by a Convention or Declaration.

The Conventions and Declarations, as the case may be, of the two Conferences, are printed separately in the succeeding numbers of the pamphlets, accompanied by the respective lists of countries which have (a) *ratified*, or (b) *adhered to*, or (c) *signed but not ratified* them, with the date of the particular action taken. Each Convention or Declaration is followed also by the texts of reservations, as indicated above respecting the pamphlet containing the Tables of Signatures, Ratifications, etc. (No. 3). The English translations of the original French texts of the several Conventions, Declarations and Final Acts of the Conferences reproduce the official translations of the Department of State, except that a few obvious misprints, and an occasional mistranslation, have been corrected. Marginal notes have been added to facilitate reference.

Inasmuch as most of the Conventions and Declarations of the Conferences concerning war contain a clause to the effect that they only bind belligerents which have ratified them, and then only if all the belligerents are contracting Powers, there is appended a list of the countries now at war and the dates of the formal declarations or announcements of the existence of a state of war.

It should be noted that the Conventions and Declarations are not binding prior to the deposit of ratifications at The Hague. The mere signature of these conventional agreements may be regarded as the indication of an intention to ratify them, but creates no legal obligation. Adhesion has the effect of ratification. In this relation it is proper to remark that only the formal agreements of the Conferences—such as the Conventions and the signed Declarations—contemplate ratification. The informal agreements—such as the unsigned Declarations, Resolutions, Recommendations, and *Vœux*—are not signed separately. They are contained in the Final Act, which is an official summary of the proceedings of each Conference, and as such is signed.

A word should be said about the additional protocol to the Convention for an International Prize Court. It was not agreed upon at the Second Hague Conference, but was subsequently negotiated in order to remove objections to the Prize Court Convention. The signatures to it are indicated in the last column of the table of signatures of the Second Conference.

The Conventions and Declarations are numbered as in the Final Acts.

The official published proceedings of the First Conference are referred to in the footnotes as *Procès-verbaux*, those of the Second as *Actes et documents*. The full titles of the publications are respectively: (1) *Conférence internationale de la paix. La Haye, 18 mai–29 juillet, 1899. Ministère des affaires étrangères. Nouvelle édition. La Haye. Martinus Nijhoff, 1907*; (2) *Deuxième conférence internationale de la paix. La Haye, 15 juin–18 octobre, 1907. Actes et documents. Ministère des affaires étrangères. La Haye, imprimerie nationale, 1907.*

JAMES BROWN SCOTT,
Director of the Division of International Law.

WASHINGTON, D. C.,
December 23, 1914.

CONVENTION (VI) RELATING TO THE STATUS OF ENEMY MERCHANT
SHIPS AT THE OUTBREAK OF HOSTILITIES

Signed at The Hague, October 18, 1907

His Majesty the German Emperor, King of Prussia; [etc.] :

Anxious to ensure the security of international commerce against the surprises of war, and wishing, in accordance with modern practice, to protect as far as possible operations undertaken in good faith and in process of being carried out before the outbreak of hostilities, have resolved to conclude a Convention to this effect, and have appointed the following persons as their plenipotentiaries:

Purpose of
Convention.

[Here follow the names of plenipotentiaries.]

Plenipotentiaries.

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1

When a merchant ship belonging to one of the belligerent Powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately, or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated.

Belligerent
merchant ships
in enemy
ports at
commencement
of hostilities
may depart
freely.

The same rule should apply in the case of a ship which has left its last port of departure before the commencement of the war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.

ARTICLE 2

A merchant ship unable, owing to circumstances of *force majeure*, to leave the enemy port within the period contemplated in the above article, or which was not allowed to leave, can not be confiscated.

May not be
confiscated.

The belligerent may only detain it, without payment of compensation, but subject to the obligation of restoring it after the war, or requisition it on payment of compensation.

May be
detained or
requisitioned.

ARTICLE 3

Enemy
merchant ships
on high seas.

Liable to
detention,
requisition
or demolition.

Subject to
laws and
customs of
maritime war.

Enemy merchant ships which left their last port of departure before the commencement of the war, and are encountered on the high seas while still ignorant of the outbreak of hostilities can not be confiscated. They are only liable to detention on the understanding that they shall be restored after the war without compensation, or to be requisitioned, or even destroyed, on payment of compensation, but in such cases provision must be made for the safety of the persons on board as well as the security of the ship's papers.

After touching at a port in their own country or at a neutral port, these ships are subject to the laws and customs of maritime war.

ARTICLE 4

Enemy cargo.

Enemy cargo on board the vessels referred to in Articles 1 and 2 is likewise liable to be detained and restored after the termination of the war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship.

The same rule applies in the case of cargo on board the vessels referred to in Article 3.

ARTICLE 5

Merchant ships
intended for
conversion
into war-ships.

The present Convention does not affect merchant ships whose build shows that they are intended for conversion into war-ships.

ARTICLE 6

Powers bound.

The provisions of the present Convention do not apply except between contracting Powers, and then only if all the belligerents are parties to the Convention.

ARTICLE 7

Ratifications.

Deposit at
The Hague.

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform them of the date on which it received the notification.

Certified copies
to Powers.

ARTICLE 8

Non-signatory Powers may adhere to the present Convention.

Non-signatory
Powers
may adhere.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

The said Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, stating the date on which it received the notification.

Notification to
other Powers.

ARTICLE 9

The present Convention shall come into force, in the case of the Powers which were a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

Effect of
ratification.

ARTICLE 10

In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall at once communicate a certified copy of the notification to all the other Powers, informing them of the date on which it was received.

Denunciation.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

ARTICLE 11

Register of
ratifications.

A register kept by the Ministry of Foreign Affairs shall give the date of the deposit of ratifications made in virtue of Article 7, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 8, paragraph 2) or of denunciation (Article 10, paragraph 1) have been received.

Each contracting Power is entitled to have access to this register and to be supplied with certified extracts from it.

Signing.

In faith whereof the plenipotentiaries have appended to the present Convention their signatures.

Deposit of
original.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

[Here follow signatures.]

RATIFICATIONS, ADHESIONS AND RESERVATIONS

The foregoing Convention was *ratified* by the following signatory Powers on the dates indicated:

Austria-Hungary	November 27, 1909
Belgium	August 8, 1910
Brazil	January 5, 1914
Cuba	February 22, 1912
Denmark	November 27, 1909
France	October 7, 1910
Germany	November 27, 1909
Great Britain	November 27, 1909
Guatemala	March 15, 1911
Haiti	February 2, 1910
Japan	December 13, 1911
Luxemburg	September 5, 1912
Mexico	November 27, 1909
Netherlands	November 27, 1909
Norway	September 19, 1910
Panama	September 11, 1911
Portugal	April 13, 1911

Roumania	March 1, 1912
Russia	November 27, 1909
Salvador	November 27, 1909
Siam	March 12, 1910
Spain	March 18, 1913
Sweden	November 27, 1909
Switzerland	May 12, 1910

Adhesions:

Liberia	February 4, 1914
Nicaragua	December 16, 1909

The following Powers signed the Convention but have not yet ratified:

Argentine Republic	Montenegro
Bolivia	Paraguay
Bulgaria	Persia
Chile	Peru
Colombia	Servia
Dominican Republic	Turkey
Ecuador	Uruguay
Greece	Venezuela
Italy	

*Reservations:*¹

Germany

Under reservation of Article 3 and of Article 4, paragraph 2.²

Russia

Under the reservations made as to Article 3 and Article 4, paragraph 2, of the present Convention, and recorded in the minutes of the seventh plenary session of September 27, 1907.²

¹These reservations were made at signature and maintained at ratification.

²The German and Russian delegations considered that these provisions established an inequality between States in imposing financial burdens on those Powers which, lacking naval stations in different parts of the world, are not in a position to take vessels which they have seized into a port, but find themselves compelled to destroy them. *Actes et documents*, vol. i, p. 236; vol. iii, p. 918.

